

moral debt to make the catalyst of their success—NEA and NEH support—more widely available to other artists.

(e.) Traditional Major Donor Fund Raising.—In addition to the ideas listed above, the new private endowments would also be the beneficiaries of traditional philanthropic efforts that other major institutions receive. Certainly, a national organization charged with supporting the nation's arts and humanities would attract large corporate and individual donors who will want to be part of such prestigious organizations. Since private giving to the arts in this country already exceeds \$9 billion a year, an increase of just 1% in this base of support would establish a strong funding foundation for the private endowments.

IV. CONCLUSION

Through a five-year privatization of the NEA and NEH, the Abraham bill permits the growth of private giving to the arts (with government-supported fundraising during the transition). The Abraham approach also proposes tax incentives for charitable donations to create broad-based opportunity for private giving; reinstatement of tax deductions for non-itemizers may very well engender increased funding of the arts.

More importantly though, privatization has the distinct advantage of allowing the citizenry to direct those funds more efficiently and without controversy. Simply decreasing federal funding of the Endowments or providing for increased block grants to the states fails to resolve the fundamental problem associated with today's NEA and NEH. By contrast, privatization removes the government from the unwinnable task of balancing censorship and obscenity, once and for all.

Federal bureaucracies on every level are being scaled back or eliminated entirely. Government programs, particularly non-essential ones like the NEA and NEH, that can be replaced with privately-run entities, must be. The manifest support from an array of celebrities and arts patrons for the arts and humanities makes clear that a reconstituted NEA and NEH will thrive. In short, a privately-funded "American Endowment for the Arts" and an "American Endowment for the Humanities" can provide as much support for artists and writers without the attendant, ongoing disputes faced by a government-managed entity.

The people we have heard from in support of the NEA and NEH—art enthusiasts, philanthropists, actors, and singers—will want to contribute to private arts and humanities foundations. Assuming their belief in a national organization supporting the arts and humanities is an ardent as they claim when they lobby Congress, there will be a wellspring of support for private endowments.

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the trans-

portation fuels tax applicable to commercial aviation.

S. 457

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 457, supra.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 920

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 920, a bill to assist the preservation of rail infrastructure, and for other purposes.

S. 959

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Arizona [Mr. MCCAIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide in-

creased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

AMENDMENT NO. 1533

At the request of Mr. D'AMATO his name was added as a cosponsor of amendment No. 1533 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

SENATE RESOLUTION 152—STATEMENT OF CONSTITUTIONALITY REQUIREMENT

Mr. ABRAHAM submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 152

Resolved,

SECTION. 1. CONSTITUTIONAL AUTHORITY.

This resolution is approved pursuant to the powers granted to the Senate under Article I, section 5, clause 2 of the United States Constitution.

SEC. 2. CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION.

The Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIV

"CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION

"1. (a) A constitutional authority clause shall follow the enacting clause of any bill or the resolving clause of any joint resolution. The constitutional authority clause shall be in the following form (with appropriate modifications and appropriate matter inserted in the blanks):

"This Act (or resolution) is enacted pursuant to the power(s) granted to the Congress under Article(s) section(s) , clause(s) of the United States Constitution."

"(b) A similar clause shall precede the first title, section, subsection, or paragraph and each following title, section, subsection, or paragraph relies on a different article, section, or clause of the Constitution from the one pursuant to which the first title, section, subsection or paragraph is enacted.

"2. It shall not be in order for the Senate to consider any bill, joint resolution, amendment, motion, or conference report that does not comply with the provisions of paragraph (1), on the objection of any Senator."

SENATE RESOLUTION 153—MAKING TECHNICAL CORRECTIONS TO SENATE RESOLUTION 120

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 153

Resolved, That Senate Resolution 120, agreed to May 17, 1995 (104th Congress, 1st Session), is amended—

(1) in section 2(a)(1)(A) by inserting " , except that Senator Frank H. Murkowski shall substitute for Senator Phil Gramm" before the semicolon;

(2) in section 5(b)—

(A) in paragraph (11) by inserting "with the approval of the Committee on Rules and Administration" before the period; and

(B) in paragraph (12) by inserting "and the Committee on Rules and Administration" after "concerned"; and

(3) in section 8 by adding at the end the following: "There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Special Committee from May 17, 1995 through February 29, 1996, to be paid from the appropriations account for 'Expenses of Inquiries and Investigations' of the Senate."

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

(Amendment No. 1719 is reproduced for the RECORD of July 14, 1995.)

PACKWOOD AMENDMENT NO. 1719

(Ordered to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike page 2, line 15 through page 3, line 7 and add at page 2, line 15, the following:

"(a) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to every rulemaking, according to the provisions thereof, except to the extent there is involved—

"(i) a matter pertaining to a military or foreign affairs function of the United States;

"(ii) a matter relating to the management or personnel practices of the agency;

"(iii) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency;

"(iv) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(2) APPLICATION TO THE DEPARTMENT OF THE TREASURY.—In the case of rulemaking of the Department of the Treasury, this section applies to Treasury Regulations.

HARKIN AMENDMENTS NOS. 1726–1727

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

AMENDMENT NO. 1726

On page 36, line 3, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

AMENDMENT NO. 1727

On page 37, line 11, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

BOXER AMENDMENTS NOS. 1728–1729

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her

to amendment No. 1487, supra; as follows:

AMENDMENT NO. 1728

At the end of Section 622(e)(1) add the following new paragraph:

"(4) In conducting a cost-benefit analysis, the agency shall include an analysis of how the proposed rule or subject of the analysis will affect vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups; and shall consider, address and describe the persons or classes of persons likely to receive benefits under (c)(2)(A) of this section or likely to bear costs under (c)(2)(B) of this section."

AMENDMENT NO. 1729

At the end of Section 633(f) add the following new paragraph:

"(4) The head of an agency in presenting risk assessment conclusions shall describe how the agency will address the risk to health or safety which is the subject of the rule, on vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups."

CRAIG (AND HEFLIN) AMENDMENT NO. 1730

(Ordered to lie on the table.)

Mr. CRAIG (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, between lines 20 and 21, insert the following:

SEC. 5. REGULATORY AGREEMENTS.

(a) IN GENERAL.—Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"§ 557a. Regulatory agreements

"(a) DEFINITION.—In this section, the term 'regulatory agreement' means an agreement entered into under this section.

"(b) GENERAL AUTHORITY.—An agency that is authorized or directed by law to issue a rule (with or without a hearing on the record) that would govern an activity of any person, may, prior to commencing a proceeding to issue such a rule or an amendment to such a rule under the rulemaking procedure that would otherwise apply under that law or this subchapter—

"(1) enter into a regulatory agreement with a person or group of persons engaged in those activities; or

"(2) enter into separate regulatory agreements with different persons or groups of persons engaged in the activity if the agency determines that separate agreements are appropriate in view of different circumstances that apply to different persons or groups of persons.

"(c) REQUEST FOR NEGOTIATIONS.—Negotiations for a regulatory agreement may be commenced at the instance of a person or group of persons engaged in the activity to be regulated, by the submission to the agency by such a person or group of persons of a request for negotiations, which may be accompanied by a proposed form of regulatory agreement or by a general description of the proposed terms of a regulatory agreement.

"(d) DETERMINATION WHETHER TO PROCEED WITH NEGOTIATIONS.—

"(1) IN GENERAL.—Not later than 60 days after receiving a request for negotiations under subsection (c)(1), an agency shall publish in the Federal Register a determination whether to conduct negotiations for a regulatory agreement, accompanied by a statement of reasons for the determination.

"(2) CRITERIA.—An agency may determine not to conduct negotiations for a regulatory agreement under this section—

"(A) if the agency finds that the number of persons that have expressed willingness to participate in negotiations, as a proportion of the number of persons whose activity would be governed by the rule, is not sufficient to justify negotiation of a regulatory agreement; or

"(B) for any other reason, within the sole discretion of the agency.

"(3) NO JUDICIAL REVIEW.—A determination under paragraph (1) shall not be subject to judicial review by any court.

"(e) TERMS AND CONDITIONS.—A regulatory agreement shall contain terms and conditions that—

"(1) in the judgment of the agency, accomplish a degree of control, protection, and regulation of the activity to be regulated that is equivalent to the degree that would be accomplished under a rule issued under the rulemaking procedure that would otherwise apply;

"(2) provide for the addition as parties to the regulatory agreement, with or without a reopening of negotiations, of persons that did not participate in the negotiations;

"(3) provide for renegotiation of the regulatory agreement, at a stated date or from time to time, as renegotiation may become appropriate in view of changed circumstances or for any other reason; and

"(4) specify the provisions of law for the purposes of which the regulatory agreement shall, or shall not, be treated as a rule issued under section 553 or sections 556 and 557, as the case may be.

"(f) ENFORCEMENT.—A regulatory agreement shall provide for injunctive relief and penalties for noncompliance that, in the judgment of the agency, are adequate to deter parties from noncompliance.

"(g) CONSIDERATION OF COMMENT BY THE GENERAL PUBLIC.—

"(1) NOTICE.—Before executing a regulatory agreement, an agency shall publish a notice of the terms of the agreement in the Federal Register and solicit comments on the regulatory agreement for a period of not less than 60 days.

"(2) DECISION.—Not later than 120 days after the close of the comment period, an agency shall publish in the Federal Register a decision that includes—

"(1) a response to all comments received; and

"(2) an explanation of the agency's decision to—

"(A) enter into the regulatory agreement as agreed on in negotiations or as modified in response to public comment; or

"(B) decline to enter into the regulatory agreement.

"(h) CONTINUING AGENCY AUTHORITY AND RESPONSIBILITY.—The making by an agency of a determination not to proceed with negotiations or the entry by an agency into a regulatory agreement with fewer than all of the persons that are engaged in the activity regulated by the agreement shall not relieve the agency of its statutory authority or responsibility with respect to the activity or persons engaged in the activity.

"(i) JURISDICTION.—The United States district courts shall have jurisdiction to enforce a regulatory agreement in accordance with the terms of the regulatory agreement."

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 5, United States Code, is amended by inserting after the item for section 557 the following:

"Sec. 557a. Regulatory agreements."

REID AMENDMENT NO. 1731

(Ordered to lie on the table.)